

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JAMES A. COUTTS,

Plaintiff,

V.

KEARNEY COUNTY, NEBRASKA,  
SHERIFF SCOTT WHITE, DEPUTY  
SHANE MONTHY, DEPUTY  
COREY ZIOLA, and DEPUTY  
JUSTIN GLANZER,

Defendants.

---

8:16CV121

**MEMORANDUM  
AND ORDER**

Plaintiff, who is an inmate at the Nebraska State Penitentiary, was previously given leave to proceed in forma pauperis. (Filing No. [7](#).) The court's IFP order advised Plaintiff that the Prison Litigation Reform Act requires that prisoner plaintiffs pay the full amount of the court's \$350.00 filing fee by making monthly payments to the court, even if the prisoner is proceeding IFP. [28 U.S.C. § 1915\(b\)](#). The order informed Plaintiff that pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the Complaint. Plaintiff was further advised that in addition to the initial partial filing fee, Plaintiff must make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. [28 U.S.C. § 1915\(b\)\(2\)](#).

On June 20, 2016, Plaintiff filed a motion requesting that the court modify its IFP order to reflect that Plaintiff should only be required to pay 20 percent of the preceding month's *earned* income, not money credited to Plaintiff's account as a gift. (Filing No. [10](#).)

Plaintiff's contention that gifts from his family should be excluded as income for purposes of calculating his payments under the Act is without merit. Income under the Prison Litigation Reform Act includes "all deposits to the prisoner's inmate account, whether the deposit be earned income, a gift, or otherwise." [\*Cosby v. Meadors\*, 351 F.3d 1324 \(10th Cir. 2003\)](#). Therefore, Plaintiff's motion will be denied.

IT IS ORDERED that Plaintiff's motion (Filing No. [10](#)) is denied.

DATED this 27<sup>th</sup> day of June, 2016.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge